

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING, SALES
PRACTICES, AND PRODUCTS LIABILITY
LITIGATION,

MDL No. 16-2738 (FLW) (LHG)
JUDGE MICHAEL SHIPP

THIS DOCUMENT RELATES TO:

ANN BURY,

Civil Action No.: 3:19-cv-17751-
MAS-RLS

SUGGESTION OF DEATH AND MOTION
TO SUBSTITUTE PROPER PARTY

Pursuant to Federal Rules of Civil Procedure 25(a), Plaintiff files this Suggestion of Death and Motion to Substitute Proper Party and respectfully submits as follows:

1. This is a product liability action brought by Plaintiff Ann Bury (hereinafter “Decedent”). Prior to her death on December 5, 2022, of metastatic ovarian cancer, Decedent alleged that she was diagnosed with ovarian cancer as a result of her exposure to Johnson & Johnson talcum baby power products manufactured and marketed by Defendant Johnson & Johnson (“J&J”) consisting of talc mined and processed by Imerys (“Imerys”).
2. Decedent filed her Complaint and Jury Demand on August 4, 2019, which was amended on August 16, 2019, in the United States Western District Court of Washington. The Complaint alleges strict product liability, inadequate warning, construction of composition defect, design defect, negligence, breach of implied and express warranties, negligent misrepresentation, fraud, and punitive damages.

3. After Decedent's death on December 5, 2022, the State of Washington King County Superior Court appointed Gregg Stuart Bury as the Personal Representative of the Estate of Ann Bury on May 2, 2023.
4. Fed R. Civ. P. 25(a) explicitly provides: "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by . . . the decedent's successor or representative." Decedent's claims were not extinguished and her action survives to and in favor of her heirs. *See* Chapter 4.20 RCW (authorizing personal representative to bring causes of action for wrongful death for the benefit of the decedent's beneficiaries). Accordingly, Plaintiff moves that Gregg Stuart Bury, the Personal Representative of the Estate of Ann Bury, should be substituted as the proper party for Decedent on behalf of her estate and all wrongful death beneficiaries, including Ann Bury's daughters, Erin and Eilis Bury be added. Plaintiff also moves to add Erin and Eilis Bury as plaintiffs as proper parties for their associated loss of consortium claims as permitted under RCW 4.20.046 and RCW 4.20.060.

CONCLUSION & PRAYER

For the foregoing reasons, Plaintiff requests the Court substitute Gregg Stuart Bury, as the Personal Representative of the Estate of Ann Bury and add Erin Bury and Eilis Bury, as Plaintiffs in this case and for such other relief as to which they may be justly entitled.

Dated this 6th day of September, 2023. Respectfully Submitted by,

s/ J. Dino Vasquez

J. Dino Vasquez, WSBA #25533

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Deceased

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2023, the foregoing document was electronically filed with the United States District Court's CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Heather L. Hattrup

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